

REMARKS

The following remarks and the above amendments are submitted to address all issues in this case, and to put this case in condition for allowance. The claims are amended solely to better define the subject matter of the claimed invention. No new matter is added in these amendments. After the above amendment, application claims 21-28 and 30-41 are pending in the application. Application claims 21, 33, 35 and 38 are independent.

Applicants have studied the Office Action Mailed June 18, 2003 and have the following remarks.

Priority

Applicants note that the Examiner claims that the priority case 09/705,171 fails to disclose or provide adequate support for a handle having two axes. Applicants do not admit that this is a correct interpretation of the priority document, but have chosen to distinguish the cited references from the instant claims. They reserve the right to later argue that the priority document shows all necessary elements.

35 U.S.C. §102

Bellini

The Examiner rejected the claims under 35 USC §102(a) as anticipated by Bellini (WO01/52687A1). Applicants respectfully traverse the rejection on the grounds that Bellini fails to show: that when the arm is in the retracted position, the elongated hand grip is not between the proximal and distal ends of the arm as required by claim 21, a curved arm as required by claims 33 and 35, or rolling the piece of baggage on the at least one wheel with the towing handle oriented in the first direction wherein a second of the at least two pivot axes extends vertically

and the grip portion of the towing handle extends horizontally in a plane perpendicular to the first axis as required by claim 38. As all other claims depend from these independent claims, Applicants therefore contend that new prosecution claims 21-28 and 30-41 are all allowable over Bellini.

Claim 21

With regards to claim 21, the axis of rotation 13 of Bellini is designed “to enable the grip portion 9 to rotate, with respect to supporting structure 8, between a first work position (Fig. 2) in which the grip portion 9 projects from the free end 10 of supporting structure 8, and a second work position (Fig.4) in which the grip portion is rotated 180° with respect to the first work position and collapsed inside supporting structure 8.” (Page 5, lines 4-8) That is the rotation around axis 13 of Bellini allows for the handle to go from a work position to a storage position where it is folded away and those two positions involve a 180 degree rotation about axis 13. (See Page 5, lines 26-27).

This is not the operation of the two axis rotation of the instant invention, in the instant invention the grip is rotated to eliminate twist on the wrist and shoulder and allow the wrist to hang straight at the side of the user when the towing handle is in use (see, for example, page 20 of the instant specification). In the use position, the handle is in the configuration of FIG. 11 in the instant case.

These operations are completely different and that difference has been called out by the amendment to the claim. The handle of the instant case is not rotated back into the space between the distal and proximal ends of the arm when the arm is retracted and is preferably never rotated between the distal and proximal ends of the arm at any time. Instead, as is clearly visible from FIG. 10, the handle remains extended outward from the distal end when the arm is

retracted and the second rotational axis is used to keep the handle in a comfortable position, regardless of the tilt of the bag.

Claims 33 and 35

With regards to claims 33 and 35, the supporting structure 8 of Bellini (which the Examiner has asserted is the arm of the present invention) “comprises two straight, parallel rods.” (page 4, line 7) The arm in the instant claims is curved between the proximal and distal ends. As Bellini clearly does not teach this element, and expressly teaches a different element (namely a straight arm), it is impossible for Bellini to anticipate these claims. Further, the inclusion of curved rods in Bellini would be inconsistent with the design of the rotation to allow storage, as the handle could not be conveniently placed inside a curved structure for storage.

Claim 38

With regards to claim 38, Fig. 1 of Bellini shows the operating position and the only other alternative position discussed is that of Fig. 4 (the second work position). Applicant notes that Bellini does allow the bag to be pulled in either configuration, but provides for no other useable positions. It is clear from Fig. 1, that neither axis of rotation in Bellini is vertical in that configuration. Axis 13 is horizontal and axis 14 projects at an angle between horizontal and vertical. The discussion of Fig. 4 of Bellini notes that the handle is rotated 180 degrees around Axis 13 from that of Fig. 1. As Axis 13 has not moved, it is still horizontal and axis 14, having rotated 180 degrees, will still project at the same angle as in Fig. 1 (although now in the opposite direction). As no other operating positions are provided, Bellini provides no teaching that an axis is vertical as the bag is being rolled.

As all remaining claims depend from one of the above 4 independent claims, applicants respectfully contend that prosecution claims 21-28 and 30-41 are not anticipated by Bellini and respectfully request the Examiner withdraw his rejection thereto.

Sadow

The Examiner rejected the claims under 35 USC §102(e) as anticipated by Sadow (6,193,033). Applicants respectfully traverse the rejection on the grounds that Sadow fails to show: a T-shaped handle as required by claim 21 and 38, or a curved arm as required by claims 33 and 35. As all other claims depend from these independent claims, Applicants therefore contend that new prosecution claims 21-28 and 30-41 are all allowable over Sadow.

Applicants note that the examiner did not reject the originally dependent claim 29 and other claims which required the handle to be “T-shaped” in light of Sadow. Purely to further prosecution, applicants have incorporated that limitation into independent claims 21 and 38 which are now believed to be allowable in light of Sadow.

With regards to claims 33 and 35, Sadow nowhere teaches the use of a curved arm. It is abundantly clear from the drawings that the portion 50 is linear. Therefore Sadow cannot anticipate this limitation.

For these reasons, Applicants respectfully contend that prosecution claims 21-28 and 30-41 are not anticipated by Sadow and respectfully request the Examiner withdraw his rejection thereto.

Hansen

The Examiner rejected the claims under 35 USC §102(e) as anticipated by Hansen (5,722,118). Applicants respectfully traverse the rejection on the grounds that Hansen also fails to show: a T-shaped handle as required by claim 21 and 38, or a curved arm as required by claims 33 and 35. As all other claims depend from these independent claims, Applicants therefore contend that new prosecution claims 21-28 and 30-41 are all allowable over Hansen.

Applicants note that the examiner did not reject the originally dependent claim 29 and other claims which required the handle to be "T-shaped" in light of Hansen. Purely to further prosecution, applicants have incorporated that limitation into independent claims 21 and 38 which are now believed to be allowable in light of Hansen.

With regards to claims 33 and 35, Hansen nowhere teaches the use of a curved arm portion. It is abundantly clear from the drawings that the arm 11 is linear. Therefore, Hansen cannot anticipate this limitation.

For these reasons, Applicants respectfully contend that the new prosecution claims 21-28 and 30-41 are not anticipated by Hansen and respectfully request the Examiner withdraw his rejection thereto.

Conclusion

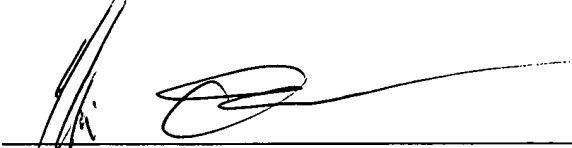
In light of the above, Applicants respectfully request entrance of the above amendment and allowance of all pending claims so that this case can pass on to issue. As a final point, It is believed no fees are due in conjunction with this filing as it believed to be timely filed due to the closing of the Patent Office because of weather on September 18 and 19, 2003; however, if an extension of time is required, please consider this paragraph a petition for extension of time of

one month and the Commissioner is authorized to charge any fees including for any extension of time necessary for entering this amendment to/from our **Deposit Account No. 50-0975**.

If any questions remain, Applicants respectfully request a telephone call to the below-signed attorney at (314) 444-7783.

Respectfully submitted,
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